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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,518	01/30/2002	William D. Fisher	10010469-1	3691

7590 07/13/2005
AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland, CO 80537-0599

EXAMINER

FORMAN, BETTY J

ART UNIT PAPER NUMBER

1634

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/066,518

Applicant(s)

FISHER ET AL.

Examiner

BJ Forman

Art Unit

1634

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 June 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-10 and 13-19.
Claim(s) withdrawn from consideration: 20-43.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

BJ Forman
Primary Examiner
Art Unit: 1634

Continuation of 11. does NOT place the application in condition for allowance because: The amendments introduce the limitations of claims 11 and 12 into Claim 1 and cancel Claims 11 and 12. Claims 11 and 12 were rejected under 35 U.S.C. 102 over Tisone. The amendments do not overcome the rejections over Tisone. Applicant asserts that Tisone does not teach arrays spaced apart from each other as recited in Claim 1 and illustrated in Fig. 6 of the instant specification. The argument has been considered but not found persuasive. The claims require an substrate having multiple arrays wherein the arrays are spaced apart from each other. The claims do not define the spacing between the arrays and especially do not define the spacing as being different from the spacing between rows and columns. As stated in the office action, Tisone teaches a substrate having multiple rows and columns wherein any grouping of two rows and/or columns are encompassed by the claims. The row and columns of Tisone are spaced apart from each other as clearly illustrated (Tisone, Fig. 6). Because the arrays of rows and/or columns of Tisone are spaced apart from each other and because the claims do not define a physical relationship encompassed by the claimed spacing so as to define the array over the spaced array of Tisone, the arrays of Tisone are encompassed by the claims.

Regarding the Webb references, Applicant asserts that the references do not teach the claimed method wherein drops are dispensed while moving the substrate and head relative to each other. The argument has been considered but is not found persuasive because as stated in the office action, the claims do not require bi-directional printing as asserted. As Applicant notes, the preamble recites dispensing drops while maintaining a gap, however, neither the preamble nor method steps require dispensing drops while moving the head relative to substrate. The syntax of the preamble is such that the word "while" modifies maintaining a gap. The phrase "and moving the head relative to the substrate" merely defines movement of the head relative to the substrate during array fabrication. The phrase is disconnected from the term "while" which defines gap maintenance. The claims do not require printing continuously during head movement or bi-directional printing as asserted. Therefore Applicant arguments are not commensurate in scope with the claims.

BJ FORMAN, PH.D.
PRIMARY EXAMINER